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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/735,351	12/12/2003	David Bernstein	D-4031	3737
26829	7590	09/21/2005	EXAMINER	
JOHN L. JAMES P.O. BOX 2025 MARIETTA, GA 30061-2025			COOLMAN, VAUGHN	
			ART UNIT	PAPER NUMBER
			3618	
DATE MAILED: 09/21/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/735,351

Applicant(s)

BERNSTEIN ET AL.

Examiner

Vaughn T. Coolman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12/12/2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the elements top surface and bottom surface positively recited in claims 1, 3, 8, 10, 11, and 12 must be shown or the feature(s) canceled from the claim(s). These features are visible in the figures, but their prominence in the claims warrant a reference character for each element. No new matter should be entered.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the elements first and second pegs positively recited in claim 7 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will

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be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 46, 48. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 3 are rejected under 35 U.S.C. 102(b) as being anticipated by Weck et al (U.S. Patent No. 6,375,202).

In re claim 1, Weck discloses a pallet, defined in the tenth edition of the Merriam-Webster dictionary as a portable platform for handling, storing, or moving materials and packages, that includes: a base member (FIG 14, item 160) having top and bottom surfaces, the

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top surface defining first (FIG 13, item 32) and second (FIG 13, item 34) spaced apart openings near an edge of said top surface (Column 4, lines 6-8); a plurality of hollow legs (FIG 14, items 170) extending downwardly from said bottom surface and defining a passageway below said bottom surface; a plurality of wheel means, one for each leg of said plurality of hollow legs, each said wheel means being fastened to said base member inside an associated hollow leg (Column 9, lines 10-19) and extending downwardly from said base member to an elevation below said associated leg, as shown in FIG 14 so that said wheel means is free to move said base member; a handle (FIGS 1, 2; item 44) having first (FIG 2, item 40) and second (FIG 2, item 42) upright members having bottom end portions, shown in FIGS 1, 2 removably inserted in said first and second spaced apart openings and a horizontal member (FIG 2, item 62) connecting top portions of said first and second upright members; and first and second flanges (FIGS 1, 14, items 102) attached to said bottom end portions of said first and second upright members, said flanges resting on said top surface, as shown in FIGS 1, 2, 14 when said upright members are inserted in said first and second openings.

In re claim 2, Weck discloses all of the elements of the claimed invention as described above, and further shows a panel (FIGS 1, 2, item 56) attached to the first and second upright members (40, 42) below the horizontal member (62).

In re claim 3, Weck discloses all of the elements of the claimed invention as described above, and further show the top surface of base member (160) having third (FIG 13, item 144) and fourth (FIG 13, item 146) spaced apart openings (Column 8, line 5) near an opposed edge of the top surface.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4, 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weck et al (U.S. Patent No. 6,375,202) in view of Flowers (U.S. Patent No. 5,186,479).

In re claims 4 and 5, Weck discloses all of the elements of the claimed invention as described above except for the pallet including a bin having a sidewall, and the bin having a bottom with two spaced apart downwardly extending protrusions removably inserted in said third and fourth openings of the base member. Flowers, however, teaches the use of a bin (FIG 1, item 24) having a sidewall (FIG 1, item 64) in conjunction with a pallet (FIG 1, item 20) and further teaches the use of downwardly extending protrusions (FIG 1, items 66c) removably inserted in openings (FIG 1, item 78a) located on the base (FIG 1, item 22) of the pallet. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the pallet shown by Weck with the removable bin having a sidewall and protrusions as taught by Flowers, since such a modification would, according to Flowers, provide the advantage of increasing the cargo capacity of the pallet. Another benefit would be the ability to transport multiple items with a highly reduced probability of items falling off an edge of the pallet when maneuvering the pallet.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Weck in view of Stallbaumer (U.S. Patent No. 6,758,482).

In re claim 6, Weck discloses all of the elements of the claimed invention as described above except for the pallet including a bin having a sidewall, wherein the sidewall is closed and said first and second upright members are inside said closed sidewall. However, Stallbaumer teaches the use of a pallet (FIG 4, item 61) in conjunction with a bin (FIG 5, item 71) having a closed sidewall, shown in FIG 5, wherein the first (FIG 5, item 19) and second (FIG 5, item 21) upright members of the pallet handle (FIG 5, item 18) are inside the closed sidewall, as shown in FIG 5. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the pallet shown by Weck, with the bin and handle configuration as taught by Stallbaumer, since such a modification would provide a larger storage area for items due to the fact that the size of the bin is not limited by the placement of the handle.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Weck in view of Stallbaumer, further in view of Flowers.

In re claim 7, Weck in view of Stallbaumer discloses all of the elements of the claimed invention as described above except for the pallet including first and second pegs removably inserted in said third and fourth openings of said base inside said closed sidewall. However, Flowers teaches the use of first and second pegs (FIG 1, items 66c) removably inserted in openings (FIG 1, item 78a) located on the base (FIG 1, item 22) of the pallet. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the pallet with handle and bin configuration shown by Weck in view of Stallbaumer, with the pegs inserted into third and fourth openings as taught by Flowers, since such a modification would

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provide both of the advantages described in re claims 4, 5, and 6. In addition to the advantages described above, the interior location of the handle in conjunction with the pegs inserted into the openings in the base would provide the advantage of four points of restraint for the bin to restrict translation and rotation of the bin while located on top of the pallet.

Claims 8, 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weck in view of Flowers.

In re claims 8 and 9, Weck discloses all of the elements of the claimed invention as described above except for the pallet including a first shelf positioned on the top surface of the base and having a plurality of legs. He also neglects to describe the plurality of legs as being detachably attached to the shelf. Flowers, however, teaches the use of a shelf (FIG 1, item 62) positioned on the top surface (FIG 1, item 26a) having a plurality of legs (FIG 1, items 66c). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the pallet shown by Weck with the shelf and legs as taught by Flowers, since such a modification would, according to Flowers, provide the advantage of increasing the cargo area of the pallet. Furthermore, Flowers teaches the use of detachable legs on the shelf, as shown in FIG 2 and described in Column 5, lines 60-65. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the pallet shown by Weck with the shelf having removable legs as taught by Flowers, since such a modification would provide the advantage of shipping the units to a retailer unassembled, therefore saving money on assembly costs. Also, it would be less expensive to replace individual legs, instead of the entire shelf assembly if and when the legs were damaged during consumer usage.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Weck in view of Flowers, and further in view of Ciphers Sr. (U.S. Design Patent No. 410,577).

In re claim 10, Weck in view of Flowers discloses all of the elements of the claimed invention as described above, and furthermore, Flowers shows the top surface of his base as having a plurality of leg openings (FIG 1, items 78a) each adapted to removably receive a leg of the plurality of legs (FIG 1, items 66c) to removably attach the first shelf to the base member, as shown in FIG 1. Neither Weck nor Flowers shows at least two legs of said plurality of legs being positioned closer to a center of the top surface of the base member than said first and second openings of the top surface. Ciphers Sr. does show a top surface with first and second openings near an edge of a pallet in FIGS 5 and 8, shown at the left side of the figures at the corners of the pallet. He also shows a plurality of leg openings adapted to receive a leg of a plurality of legs in FIGS 5 and 8 as well, shown as four openings, two at the right side of the figures in the corners of the pallet and two at the longitudinal edges of the pallet near the longitudinal midpoint of the pallet. It is obvious from the figure that at least two of the plurality of leg openings are positioned closer to a center of the top surface of the base member than the first and second openings of the top surface shown in the figure. It is also obvious that a shelf of the type disclosed by Flowers is capable of being used with the plurality of leg openings shown by Ciphers Sr.. Therefore rendering the position of at least two legs of the plurality of legs closer to a center of the top surface of the base member than the first and second openings of the top surface. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the pallet shown by Weck and modified by Flowers, with the geometric configuration of leg openings as taught by Ciphers Sr., since such a modification

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would provide the advantage of being able to store or transport items of a greater variety of sizes on the pallet. For example, tall items could be located at the end of the pallet without a shelf, and shorter items could be located either on or under the shelf at the other end of the pallet.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Weck in view of Flowers and Ciphers Sr., and further in view of Liu (U.S. Patent No. 5,695,205).

In re claim 11, Weck in view of Flowers and Ciphers Sr. discloses all of the elements of the claimed invention as described above except for a second shelf positioned atop the first shelf, with the second shelf having a plurality of legs adapted to fit into a plurality of openings in a top surface of the first shelf to detachably attach the second shelf to the first shelf. However, Liu shows in FIG 2 a second shelf, item 10 at bottom of figure, positioned atop a first shelf, item 10 at top of figure. The second shelf is shown as having a plurality of legs (FIG 2, items 104) adapted to fit into a plurality of openings (FIG 2, items 103) in a top surface of said first shelf to detachably attach said second shelf to said first shelf, as shown in FIGS 2 and 3. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the pallet shown by Weck as modified by Flowers and Ciphers Sr., with the shelving configuration as taught by Liu, since such a modification would provide more carrying capacity and a structure capable of facilitating the organization of items on the pallet.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Weck in view of Flowers.

In re claim 12, Weck discloses a pallet that includes: a base member (FIG 14, item 160) having top and bottom surfaces, the top surface defining first (FIG 8, item 140) and second (FIG 8, item 142) spaced apart openings near an edge of said top surface (Column 4, lines 6-8); the top

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surface of base member (160) defining third (FIG 8, item 144) and fourth (FIG 8, item 146) spaced apart openings (Column 8, line 5) near an opposed edge of the top surface; a plurality of hollow legs (FIG 14, items 170) extending downwardly from said bottom surface and defining a passageway below said bottom surface; a plurality of wheel means, one for each leg of said plurality of hollow legs, each said wheel means being fastened to the base member inside an associated hollow leg (Column 9, lines 10-19) and extending downwardly from said base member to an elevation below said associated leg, as shown in FIG 14 so that said wheel means is free to move said base member. Weck does not show a bin having a sidewall and a bottom, said bottom having four spaced apart downwardly extending protrusions removably inserted in said first, second third and fourth openings of said base. However, Flowers teaches the use of a bin (FIG 1, item 24) having a sidewall (FIG 1, item 64) and a bottom (FIG 2, item 62b) in conjunction with a pallet (FIG 1, item 20) and further shows the bottom as having four downwardly extending protrusions (FIG 1, 2; items 66c) removably inserted in openings (FIG 1, item 78a) located on the base (FIG 1, item 22) of the pallet. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the pallet shown by Weck with the removable bin having a sidewall, bottom, and protrusions as taught by Flowers, since such a modification would, according to Flowers, provide the advantage of increasing the cargo capacity of the pallet. Another benefit would be the ability to transport multiple items with a highly reduced probability of items falling off an edge of the pallet when maneuvering the pallet.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Polumbaum et al (U.S. Patent No. 6,905,021), Liu (U.S. Patent No. 5,918,551), Nelson (U.S. Patent No. 4,165,088), and Choi et al (U.S. Patent No. 6,796,565) each disclose pallets that include various elements of the instant application.

Simpson (U.S. Patent No. 5,605,102) discloses a pallet with an attachment for displaying goods that is connected to the pallet via openings in the top surface of the base.

Avot (U.S. Patent No. 4,721,317) shows a panel connected between upright members of a handle and below a horizontal member. The panel is described as being used for advertising.

Cozza et al (U.S. Patent No. 6,095,537) and Santy et al (U.S. Design Patent No. 476,484) each show wheels and legs of the type described in the instant application.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vaughn T. Coolman whose telephone number is (571) 272-6014. The examiner can normally be reached on Monday thru Friday, 8am-6pm EST.

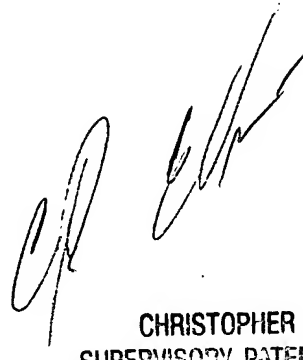
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Ellis can be reached on (571) 272-6914. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Travis Coolman
Examiner
Art Unit 3618

vtc

A handwritten signature in black ink, appearing to read 'CP Ellis', is written over a faint, circular official stamp.

CHRISTOPHER P. ELLIS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600